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C O N F I D E N T I A L SECTION 01 OF 02 QUITO 000794

SIPDIS

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TAGS: [PGOV](#) [PREL](#) [EC](#)

SUBJECT: ECUADOR: FACTS ON SUCCESSION AND STATE OF EMERGENCY

Classified By: Ambassador Kristie A. Kenney, Reason 1.4 (b&d)

11. (C) Summary: With political instability a chronic problem in Ecuador, and in the face of imminent anti-government strike action, we are providing background information on constitutional provisions for a presidential declaration of a state of emergency and for presidential succession. The GOE appears calm in the face of partial protests starting April 13. We have no information to suggest that President Gutierrez is considering declaring an emergency or will leave the Presidency. End Summary.

Presidential Succession Rules

12. (SBU) The Ecuadorian Constitution (Art. 167-168) states that the President will cease his functions under any of the following circumstances: the end of the period for which he was elected; death; renunciation accepted by the national Congress; physical or mental incapacity (legally proven and declared by Congress) that prevents the President from carrying out his role; destitution after a political impeachment; and by abandonment of his/her post, as declared by the national Congress. Once the President has been declared absent, his/her term is to be completed by the Vice President. If neither the President nor Vice President are able to finish the term, this role temporarily falls to the president of Congress. The president of Congress must then convoke the Congress to elect a new national President within ten days.

State of Emergency

13. (SBU) According to the Constitution (Art. 180-182), the President may declare a nationwide or partial state of emergency in the case of imminent foreign aggression, international war, extreme internal unrest ("grave conmocion interna"), or natural disasters. Once a state of emergency has been declared, the President may take all or some of the following actions: call for early collection of taxes and other fees; redirect government funds (excluding health and educational funds) towards national defense or disaster relief efforts; relocate national government headquarters; establish a nationwide or local security zone; censor media communications; limit the Constitutional rights of freedom of expression, freedom of association, home privacy, mail correspondence privacy, free transit within Ecuador and internationally, and the prohibition against forced testimony against relatives or spouses; call up all military reserves and deploy police; call for mobilization or demobilization as needed; and close or open ports.

14. (SBU) The President must notify Congress within 48 hours of the publication of a state of emergency decree. The Congress has the power to revoke the decree, if it feels justified. The state of emergency decree is valid for a maximum of 60 days; however, it can be renewed. Once the causes of the state of emergency have passed, the President must decree its end and notify the Congress of this immediately.

Both Provisions Tested

15. (SBU) The current Constitution dates to 1998, and both of these provisions were tested when in 1999-2000 President Mahuad declared a state of emergency and later left his post in face of a coup attempt. After the withdrawal of military support for a brief triumvirate, Mahuad was replaced by Congress with his VP, Gustavo Noboa, who served out Mahuad's term.

Comment

16. (C) A declaration of a state of emergency would give President Gutierrez the power to prevent a national strike by calling out the military and suspending rights of expression and movement. However, doing so would be foolish, and would clearly heighten the sense of crisis and galvanize anti-government opposition. We have repeatedly counseled Gutierrez and his advisors to respect the right of expression and dissent, most recently during CJCS General Myers' meeting with Gutierrez on April 11 (SepTel). Gutierrez was quick to

express commitment to maintaining these freedoms.

17. (C) The current political crisis over the Supreme Court and ex-President Bucaram's return has generated calls by some opposition members (including from leaders of the main indigenous organization) for Gutierrez to resign and be replaced by VP Alfredo Palacios. Given Ecuador's turbulent political situation, we cannot rule out this possibility. However, at this time we believe threatened strike action is highly unlikely to lead to Gutierrez' resignation.

KENNEY